

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Leonard Analyst: Gloria McConnell Bill Number: ACA 13

Related Bills: See Prior Analysis Telephone: 845-4336 Amended Date: 04/16/02

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Board of Equalization Renamed/Newly Named California Tax Commission Responsible for Collecting and Administering Income Taxes

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO Neutral.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED \_\_\_\_\_ STILL APPLIES.

☒ OTHER - See comments below.

## SUMMARY

This constitutional amendment would:

- change the name of the five-member Board of Equalization (BOE) to the California Tax Commission (CTC), and
- require the CTC to collect and administer "taxes on or measured by income," herein referred to as "income taxes."<sup>1</sup>

## SUMMARY OF AMENDMENT

These amendments make technical changes, as addressed in FTB's previous analysis, to clarify that the word "commission" means the CTC. Additionally, these amendments expressly remove from CTC's responsibilities the collection and administration of taxes that are withheld from wages, which is a program administered by Employment Development Department.

<sup>1</sup> In this analysis "income" tax includes the franchise tax, which is a corporate tax measured by income and administered by the FTB.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input checked="" type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

5/8/02

## **EFFECTIVE/OPERATIVE DATE**

This measure would be effective and operative the day following passage by the voters in the next general election, which would be November 5, 2002.

## **POSITION**

Neutral. On March 6, 2002, the Franchise Tax Board voted 2-0 to take a neutral position on this bill, as amended January 7, 2002.

## **ANALYSIS**

The federal and state tax law discussion in the previous analyses still applies. The implementation considerations and fiscal impact identified in the previous analyses also still apply and for convenience, are restated below.

## **IMPLEMENTATION CONSIDERATIONS**

The Revenue and Taxation Code requires the Franchise Tax Board (FTB) to administer and enforce the income tax laws. This constitutional amendment generally would give the same responsibility to the CTC, which could result in administrative conflicts between FTB and CTC. FTB may have to continue its statutory responsibility to administer the income tax laws until such time as directed otherwise through legislation (enabling legislation) or order of a state appellate court. According to the author's staff, the author anticipates that enabling legislation to transfer the responsibilities would be introduced once the voters pass the constitutional amendment.

When providing for the enabling legislation, clarification should expressly be provided in the following matters:

- Certain programs administered by FTB are not income taxes: homeowners and renters assistance, non-tax debt collection, political reform audit, and nonadmitted insurance tax programs. It is unclear whether it is the author's intent to shift responsibility for these programs to CTC or to continue these programs under FTB.
- Certain laws administered by FTB are located within the income tax laws and administered in conjunction with the income tax laws, but are not income taxes, e.g., voluntary contributions and treatment of tax-exempt organizations. Therefore, it is unclear whether the author intends to shift administration of these provisions to CTC or to continue administration by FTB.
- Unless the author intends for FTB's California Child Support Automated System (CCSAS) responsibilities to remain with FTB, the enabling legislation should address CCSAS responsibilities.

## **FISCAL AND ECONOMIC IMPACT**

This constitutional amendment alone should not affect departmental costs and tax revenue. However, any fiscal and economic impact would result from the enabling legislation.

## **LEGISLATIVE STAFF CONTACT**

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